

1 53RD ANNUAL MEETING OF THE
2 REPUBLICAN RIVER COMPACT ADMINISTRATION
3
4

5
6 HELD September 12, 2013
7

8 BEGINNING at 9:00 a.m.
9

10 At the Colby Community Building Little Theatre
11 Room, Colby, Kansas.
12

13 The above-entitled meeting was taken at
14 the Colby Community Building, Little Theatre Room, 285
15 E. 5th, Colby, Kansas, before Marilyn F. Bailey,
16 Registered Merit Reporter and Certified Court Reporter
17 for the State of Kansas.
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19 APPEARANCES NEXT PAGE:
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REPUBLICAN RIVER COMPACT ADMINISTRATION APPEARANCES:

For Kansas:

David Barfield, Commissioner and Chair
Scott Ross, Water Commissioner
Chris Grunewald, Kansas Attorney General's Office

For Colorado:

Dick Wolfe, Commissioner
Scott Steinbrecher, Colorado Attorney General's Office
Ivan Franco, Engineer Adviser

For Nebraska:

Brian Dunnigan, Commissioner
Justin Lavene, Nebraska Attorney General's Office
Jim Schneider, Deputy Director

08:50 AM

1 CHAIRMAN BARFIELD: Okay, I'd like to call
2 this meeting to begin. My name is David Barfield.
3 I am Kansas' Chief Engineer and Commissioner for
4 Kansas and Republican Compact Administration for
5 this year. Also Chairman of the Administration.

6 So welcome to the 53rd Annual Meeting of
7 the Republican River Compact Administration here
8 in Colby, Kansas.

9 We have an agenda that we'll consider here
10 in a moment for adoption for the morning. But
11 before that, I'd like to do introductions. And I
12 think to do that, we're a small enough group, and
13 I think the room's small enough that we'll just go
14 around, first at the head table here, and then
09:03 AM 15 just go around the room. And if you could just
16 state your name, and sort of your association, and
17 interest in the Republican River Basin, we would
18 appreciate that.

19 Let's start with myself. I've already
20 introduced myself. To my -- I'll introduce our
21 Kansas delegation here at the table.

22 To my right is Scott Ross, Water
23 Commissioner from the Stockton field office and
24 our lead Engineering Committee Representative for
25 one more day here. We'll speak later in the

09:04 AM

1 morning about Scott's retirement that starts
2 tomorrow.

3 And then on my left is Chris Grunewald
4 from the Kansas Attorney General's office.

5 So Commissioner Wolfe, why don't we have
6 you introduce the Colorado delegation?

7 COMMISSIONER WOLFE: Thank you, Chairman.
8 Good morning. Dick Wolfe, Colorado State Engineer
9 and Commissioner for Colorado on the Republican
10 River Compact.

11 To my left is Scott Steinbrecher, who's
12 Assistant Attorney General for Colorado. And to
13 his left is Ivan Franco, who's the Engineer
14 Adviser for Colorado.

09:04 AM

15 CHAIRMAN BARFIELD: Commissioner Wolfe --
16 I'm sorry, Commissioner Dunnigan, if you'd
17 introduce Nebraska's delegation?

18 COMMISSIONER DUNNIGAN: Thank you,
19 Chairman Barfield. My name is Brian Dunnigan.
20 I'm the Director for the Nebraska Department of
21 Natural Resources and Commissioner for the
22 Republican River Compact Administration.

23 To my immediate left is Justin Lavene from
24 the Attorney General's Office. And to my right is
25 Deputy Director, Jim Schneider.

09:05 AM

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CHAIRMAN BARFIELD: Thank you,

2

Mr. Dunnigan. Why don't we start over here, and

3

if you could just, again, say your name and your

4

association. This meeting is being recorded, we

5

have a court reporter here, so to the extent

6

you're making remarks, we will have a microphone

7

available for those that make presentations. But

8

if you could just speak slowly and plainly, that

9

would be helpful.

10

MS. SCHELLPEPER: I'm Jennifer Schellpeper

11

with the Nebraska Department of Natural Resources.

12

MR. KOESTER: Paul Koester with the

13

Department of Natural Resources of Nebraska.

14

MR. RILEY: Tom Riley with the Flatwater

09:05 AM

15

Group.

16

MR. GROFF: Marc Groff, also with the

17

Flatwater Group.

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MR. WILMOTH: Tom Wilmoth, counsel for

19

Nebraska.

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MR. SULLIVAN: Mike Sullivan with

21

Colorado.

22

MR. AMPE: Peter Ampe, Hill and Robbins,

23

counsel for the Republican River Water

24

Conservation District.

25

MR. ROBBINS: I'm David Robbins, also

09:06 AM

1 counsel for the Republican River Water
2 Conservation District in Colorado.

3 MS. WILKINS-WELLS: Kate Wilkins-Wells,
4 GMD 4, Colby.

5 MR. FANNING: Jasper Fanning with the
6 Upper Republican Natural Resources, District of
7 Nebraska.

8 MR. STANTON: Shane Stanton with the
9 Department of Natural Resources, Nebraska.

10 MR. O'CONNER: Tom O'Conner, Nebraska
11 Department of Natural Resources.

12 MR. EDGERTON: Brad Edgerton of
13 Frenchman-Cambridge Irrigation District.

14 MR. THOMPSON: Aaron Thompson with the
15 Bureau of Reclamation.

16 MR. SCOTT: Craig Scott with the Bureau of
17 Reclamation.

18 MR. DOWELL: Jack Dowell with the
19 Groundwater Management District in Yuma, Colorado.

20 MR. KEELER: Dave Keeler, Division of
21 Water Resources, Colorado.

22 MR. MILLER: John Miller with the U.S.
23 Geological Survey, North Platte Field Office.

24 MR. ERGER: Patrick Erger with the Bureau
25 of Reclamation.

09:07 AM

1 MR. CLEMENTS: Mike Clements, Lower
2 Republican Natural Resources District in Alma.

3 MR. KOTSCHWAR: Jerry Kotschwar, Frenchman
4 Valley Irrigation District. Nebraska.

5 MR. JANKOVITS: Clarence Jankovits from
6 Frenchman Valley.

7 MR. ALBERT: Kenneth Albert, Frenchman
8 Valley Irrigation District in Nebraska.

9 MR. FELKER: Don Felker, Frenchman Valley
10 Manager, Nebraska.

11 MR. SMITH: Dan Smith, Middle Republican
12 Natural Resources District in Nebraska.

13 MR. MERRIGAN: Bob Merrigan, Middle
14 Republican Natural Resources District, Nebraska.

09:07 AM

15 MR. CAO: Hongsheng Cao. Kansas District
16 Water Resources.

17 MR. CORYELL: Dennis Coryell, Republican
18 River Water Conservation District, Colorado.

19 MS. DANIEL: Deb Daniel, Manager of
20 Republican River Water Conservation District,
21 Colorado.

22 MR. STEPHENS: Dan Stephens, St. Francis,
23 Kansas.

24 MR. DELKA: Mike Delka, Manager at
25 Bostwick Irrigation District in Nebraska.

09:08 AM

1 MR. WINZ: Ray Winz, Tri-Basin NRD in
2 Holdredge, Nebraska.

3 MR. THORBURN: John Thorburn, Manager of
4 Tri-Basin NRD in Holdredge, Nebraska.

5 MR. STREETER: Tracy Streeter, Kansas
6 Water Office, Topeka.

7 MR. HELMS: Dale Helms, Nebraska Surface
8 Water and groundwater irrigator.

9 MR. BOSSERT: Wayne Bossert, Groundwater
10 District 4, here in Colby.

11 MR. PERKINS: Sam Perkins, Kansas Division
12 of Water Resources.

13 MR. Schreuder: Willem Schreuder,
14 Principia Mathematica.

09:09 AM

15 CHAIRMAN BARFIELD: All right, thank you
16 very much. The next item on the agenda is
17 consideration of the adoption of the agenda. We
18 distributed the proposed agenda as in its final
19 form for our consideration this morning.

20 I guess I would ask if there are any
21 changes to the agenda that has been proposed to
22 the meeting.

23 I guess I'd accept a motion to adopt it.

24 COMMISSIONER WOLFE: So moved.

25 COMMISSIONER DUNNIGAN: Second.

09:09 AM

1 CHAIRMAN BARFIELD: It's been moved and
2 seconded. All in favor of adopting the agenda as
3 proposed, signify by saying "Aye."

4 COMMISSIONER DUNNIGAN: Aye.

5 COMMISSIONER WOLFE: Aye.

6 CHAIRMAN BARFIELD: Aye.

7 Very good. The agenda is therefore
8 adopted.

9 For everybody's information, the next two
10 items deal with approval of reports and
11 transcripts. Agenda item 3 is sort of a routine
12 matter where we consider the report and transcript
13 for the previous year's annual meeting, and we'll
14 consider that first.

09:10 AM

15 Item 4 is consideration of previous annual
16 and special meeting reports and transcripts that
17 have been backlogged. So we'll consider that
18 subsequently.

19 So a transcript of the meeting, of last
20 year's annual meeting, and a report that is a
21 summary of the meeting has been distributed to the
22 states, and there's been opportunity to review
23 that, and edit it, and I believe we are ready to
24 adopt the report and transcript for last year's
25 meeting at this time. Is that correct? Okay. I

09:11 AM 1 see both indicating so.

2 So I would, again, welcome a motion to do
3 that.

4 COMMISSIONER WOLFE: Mr. Chairman, I move
5 that we approve the annual report and transcripts
6 for the 2012 annual meeting.

7 CHAIRMAN BARFIELD: Thank you, Mr. Wolfe.

8 COMMISSIONER DUNNIGAN: Second.

9 CHAIRMAN BARFIELD: All right, second from
10 Mr. Dunnigan. All in favor, say "Aye."

11 COMMISSIONER WOLFE: Aye.

12 COMMISSIONER DUNNIGAN: Aye.

13 CHAIRMAN BARFIELD: I say Aye. Very good.
14 That is done.

09:11 AM 15 The agenda item also notes subsequent
16 special meetings, and I'd like to, just for the
17 benefit of those attending, note that since last
18 year's annual meeting there have been four special
19 meetings of the Compact Administration. And when
20 we do the record for the year this annual meeting
21 will be a part of that record, and as well as the
22 four special meetings that we have had since our
23 last annual meeting. Let me briefly summarize the
24 dates and purposes of those meetings.

25 On December 11, 2012, the Republican River

09:12 AM

1 Compact Administration, RRCA, held a special
2 meeting to discuss an outline for augmentation
3 developed by Nebraska. And at that meeting we
4 also approved regulations -- revisions to our
5 rules and regulations.

6 On March 8, 2013, the RRCA held a special
7 meeting to consider Nebraska's Rock Creek
8 Augmentation Plan and Resolution. That resolution
9 was not approved. Nebraska initiated the Fast
10 Track arbitration immediately thereafter, and an
11 arbitration trial was held on that matter in
12 Denver during late August.

13 That arbitration trial also dealt with
14 Nebraska's Proposed Alternative Water Short Year
15 Administration Plan.

09:13 AM

16 On October 2nd the RRCA held a special
17 meeting to consider Colorado's Compact compliance
18 Pipeline Proposal Resolution and Bonny Reservoir
19 Proposal Resolution. These resolutions were not
20 approved. Colorado initiated Fast Track
21 arbitration on these matters immediately
22 thereafter.

23 The arbitration trial on those two matters
24 will be held in Denver during early October.

25 And finally on July 9, the RRCA held a

09:13 AM 1 special meeting considering Nebraska's Cooperative
2 Republican Platte Enhancement Augmentation Plan
3 Proposal, and a resolution to adopt that proposal.

4 That resolution was not approved, and
5 again, Nebraska initiated Fast Track arbitration
6 on the matter shortly thereafter.

7 An arbitration trial on that matter has
8 not yet been scheduled.

9 So I believe that --

10 COMMISSIONER WOLFE: Mr. Chairman, just a
11 slight correction there. I think you indicated
12 October 2nd. It should have been May 2nd for the
13 special meeting for Colorado's proposed CCP and
14 Bonny Resolutions.

09:14 AM 15 CHAIRMAN BARFIELD: Thank you,
16 Commissioner Wolfe, for that correction. Yes, the
17 third of the meetings I mentioned was on May
18 2nd.

19 COMMISSIONER WOLFE: Thank you.

20 CHAIRMAN BARFIELD: Thank you.

21 I believe that concludes Agenda Item 3.
22 Agenda Item 4 is the -- is discussing the status
23 and acting on previous annual special meeting
24 reports and transcripts.

25 We have developed a backlog of annual

09:14 AM 1 reports, and transcripts of those reports, going
2 back to the 2007 annual meeting for the year 2006.
3 And so we have distributed those, and reviewed
4 those, and I believe we are ready to approve a
5 package that is for the five years, for the annual
6 meetings for 2007, 2008, 2009, 2010 and 2011. So
7 I guess if -- is there any discussion?

8 Okay. Again, I would entertain a motion
9 to accept.

10 COMMISSIONER DUNNIGAN: So moved.

11 CHAIRMAN BARFIELD: All right.

12 COMMISSIONER WOLFE: Second.

13 CHAIRMAN BARFIELD: All right. It's been
14 moved and seconded. Then I would ask those in
09:15 AM 15 favor to indicate by saying "Aye."

16 COMMISSIONER WOLFE: Aye.

17 COMMISSIONER DUNNIGAN: Aye.

18 CHAIRMAN BARFIELD: Aye. Okay. So that
19 packet of annual reports and transcripts are
20 approved.

21 Yesterday we held a work session where we
22 sort of prepare for this morning's meeting, as
23 well as discuss other matters in a more informal
24 setting. We have not published an annual report
25 for some time, as you can gather. We discussed

09:16 AM 1 the format of distributing the annual report. Our
2 rules require annual reports to be developed, and
3 there's some distribution of those reports that's
4 required to the President of the United States,
5 and others.

6 We've decided to publish them
7 electronically, rather than in a booklet form, and
8 distribute them via CDs. Each state will get a
9 certain number of CDs, and the chair each year is
10 required to distribute those to a fairly limited
11 set of individuals. And so that distribution will
12 happen in CD form, in electronic form, and those
13 PDFs will also be, you know, maintained on our
14 various web sites. So those should be available
09:17 AM 15 very shortly.

16 So I believe that concludes Agenda Item 4.

17 So we will go on to Agenda Item 5, which
18 is reports of the commissioners. As chairman, I
19 will give those reports.

20 In terms of climate conditions in Kansas,
21 I reported last year of drought conditions which
22 started in Kansas, in southern Kansas, in 2011,
23 which was among the most -- the least
24 precipitation, and most significant heat in quite
25 some time. Unfortunately, these conditions

09:17 AM

1 continued in to 2012 and spread to a statewide
2 status, rather than being confined to southern
3 Kansas.

4 We saw a record number of files, water
5 right files administered for minimum desirable
6 streamflow, or MDS, as we call it across the
7 state. We administered over 450 files in 2012,
8 including 190 files on the Republican River Basin.
9 And this administration in the Republican River
10 began on August 9, 2012 and continued through
11 August 15th, 2013, when it was lifted.

12 We also did a significant amount of
13 general water administration throughout the state
14 in 2012, and some in 2013 as well. Fortunately
15 drought conditions have eased over significant
16 portions of Kansas, particularly south central
17 Kansas and eastern Kansas, although much of
18 western Kansas remains very dry.

09:18 AM

19 In terms of legislation, the most
20 significant legislation with respect to water
21 passed in 2013 was House Bill 2363. I provided a
22 copy of this bill to the other states yesterday in
23 our work session. The bill has a number of
24 sections on various matters. I'd like to
25 highlight two of them here this morning.

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1 First, the bill amended the Kansas Water
2 Appropriation Act to set up a mechanism for a new
3 type of permit, called a Limited Transfer Permit.
4 The impetus for this section of the bill was a
5 concern for an effective means to allow for water
6 for, particularly, fracking activities in areas of
7 limited water supply. The bill, in essence,
8 allows for temporary leasing of a portion of a
9 water right up to four million gallons in a year,
10 for fracking or other purposes.

09:20 AM

11 A second portion of the bill I'd like to
12 highlight, it amended our Stream Obstruction Act
13 that we use to regulate the construction of dams,
14 and other types of stream obstructions, and the
15 bill significantly narrowed activities that are
16 subject to regulation under that act. The bill
17 changed jurisdictional definitions and expanded
18 exemptions for permitting of dams and other stream
19 obstructions, as well as allowing more projects
20 under Streamline Permitting Process, called
21 General Permits.

22 In response to a question of Commissioner
23 Dunnigan, we'll talk about the bill's implications
24 to monitoring non federal dams in Kansas under the
25 Compact in a later agenda item.

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1 While we crafted and supported a number of
2 the changes to our jurisdiction on smaller stream
3 obstructions and dams, the bill went much further
4 that we believed prudent in the area of reducing
5 the state's jurisdiction of dams.

6 Last year I reported on a bill of the 2012
7 legislature that enabled the creation of local
8 enhanced areas, or LEMA's, as we call them. This
9 legislation was championed by Northwest Kansas
10 Groundwater Management District Number 4, and
11 particularly its manager, Wayne Bossert, who is
12 here with us this morning.

09:21 AM

13 Immediately following the passage of this
14 bill, GMD 4 initiated proceedings for the state's
15 first LEMA in portions of Sheridan county and the
16 Republican River Basin, as well as a small piece
17 of Thomas county. The proceeding required their
18 ongoing leadership and work, vigorous stakeholder
19 involvement, and two formal hearings. I was
20 privileged to give final approval of this first
21 LEMA early this year.

22 The LEMA implements an allocation of 55
23 inches over five years, and thereby reduces water
24 use in that area by 20 percent.

25 In an effort to leverage and incentivize

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1 the potential water savings that a LEMA could
2 affect, the USDA RMA has implemented a pilot
3 project for limited irrigation crop insurance
4 within this LEMA. LEMA's been hailed as a very
5 useful tool to give locals a way to determine
6 their water management goal and outcome, and
7 specific means to accomplish those outcomes.

8 LEMAs are being discussed in other areas
9 in northwest Kansas, in west central Kansas, and
10 to a lesser degree, southwest Kansas.

11 Kansas' Division of Water Resources has a
12 vigorous compliance enforcement program that true
13 water right holders are abiding by the terms and
14 conditions of those permits. This program has had
15 widespread support for its fairness and
16 effectiveness. Over this last year we were
17 encouraged to strengthen this program further, to
18 discourage overpumping, meter tampering and other
19 such offenses. Effective this January we revised
20 our penalty matrix to increase water penalties
21 after the additional notice of noncompliance.

22 I'd like to move to talking about Kansas'
23 activities with respect to the Republican River
24 Compact. Kansas is fully in compliance with the
25 Republican River Compact. This is true with

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1 respect to all the tests of compliance under the
2 final settlement stipulation. This is also true
3 with respect to Kansas' additional duties with
4 respect to participation in the Compact
5 Administration and its business.

6 This last year has been an extremely busy
7 period in this regard for all states, including
8 Kansas.

9 As with all the states, Kansas has devoted
10 significant legal and technical resources in the
11 ongoing U.S. Supreme Court litigation regarding
12 the Republican River Compact, which continues.
13 This includes participation in the August, 2012
14 trial, and post-trial activities. It also
15 included preparing for this past month's trial on
16 the final issue in that proceeding.

09:24 AM

17 Second, Nebraska's Alternative Water Short
18 Year Administration Plan. On July 31, 2012, just
19 before last summer's trial, Nebraska submitted its
20 first ever Alternative Water Short Year
21 Administration Plan, pursuant to Appendix M by the
22 final Settlement stipulation. Kansas took time to
23 make the necessary review of the Nebraska plan,
24 found it did not conform to Appendix M's
25 requirements. Kansas offered a solution to the

09:24 AM 1 plan's deficiencies. Nebraska triggered
2 arbitration on March 21, 2013. Kansas has
3 actively participated in that arbitration, meeting
4 every arbitration deadline, and has committed
5 sufficient resources to understand Nebraska's
6 plan, and clarifying Kansas' case for the
7 fact-finder in that arbitration proceeding.

8 With respect to augmentation plans,
9 Nebraska requested Kansas' input on what it
10 believed necessary for the augmentation plan.
11 Kansas participated in the December, 2012, special
12 meeting on the subject I mentioned previously.
13 Provided written input on two occasions regarding
14 augmentation plans.

09:25 AM 15 With respect to the Rock Creek
16 Augmentation Plan; on February 8, 2012, Nebraska
17 submitted the proposal to the RRCA and requested a
18 special meeting and vote on the matter within 30
19 days. Kansas found the Rock Creek Augmentation
20 Plan deficient, and voted not to approve the plan
21 at that special meeting. Nebraska triggered
22 arbitration on the issue on March 21, 2013.

23 Kansas has met every arbitration deadline,
24 and committed sufficient resources to
25 understanding Nebraska's plan and clarifying

09:26 AM 1 Kansas' case in front of the fact-finder in that
2 arbitration proceeding.

3 With respect to Colorado's Compact
4 Compliance Pipeline, and the Bonny Reservoir
5 issues; on April 5, 2013, Colorado submitted a
6 Revised Compact Compliance Pipeline Proposal, and
7 a new proposal is Bonny Reservoir Proposal, the
8 RRCA, again, requesting a meeting within 30 days
9 to consider the matters.

10 The CCP, as it is called, has been
11 arbitrated before, and although Colorado updated
12 its plan in that regard, Kansas found it to still
13 be deficient.

14 On May 2, 2013, Colorado initiated two
09:26 AM 15 separate non-binding arbitrations concerning these
16 two proposals. Again, Kansas has met every
17 arbitration deadline and has committed sufficient
18 resources to understand the proposals and
19 clarifying -- and is working to clarify Kansas'
20 case for the fact-finding and arbitration.

21 In addition, Kansas has devoted
22 significant resources and additional time to
23 settlement discussions with Colorado on these
24 issues. Since May, Kansas has held many technical
25 discussions with Colorado.

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1 Kansas has completed a modeling and
2 accounting analysis on both issues, and provided
3 those to Colorado through this period. Eventually
4 the states drafted -- created drafts of documents
5 aiming to resolve, or at least significantly
6 narrow, the issues in dispute on those matters.
7 While we've not reached agreement on all issues,
8 we have significantly narrowed the list of
9 disputed matters.

09:28 AM

10 With respect to operations in 2013,
11 particularly with respect to Harlan County
12 Reservoir; in light of the 2013 water short year,
13 this spring Kansas worked with Nebraska and the
14 Bureau of Reclamation, as well as our Kansas
15 Bostwick Irrigation District, regarding Harlan
16 County Reservoir operations. Kansas sought to
17 fully understand Nebraska's planned operation,
18 offered a proposal, and then a counter proposal to
19 reduce the negative impact of Nebraska's
20 compliance plan on Kansas.

21 Eventually the state of Nebraska reached
22 an agreement directly with the Kansas Bostwick
23 Irrigation District to mitigate some of those
24 effects.

25 Finally, Nebraska has submitted its

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09:28 AM 1 Cooperative Republican Platte Enhancement
2 Augmentation Proposal, submitting that to the RRCA
3 on June 10, 2013, hosting a workshop regarding
4 that, and then we had the special meeting on the
5 matter on July 9, 2013.

6 Again, Kansas is unable to approve the
7 plan due to many of the same objections as the
8 Rock Creek Augmentation Project. Nebraska has
9 subsequently triggered arbitration on this issue,
10 and Kansas will devote the necessary resources in
11 those processes.

12 Each of these disputes has been very time
13 and resource consuming. Kansas will continue to
14 work with the states through these processes
09:29 AM 15 towards resolving these concerns.

16 And finally just a few announcements.
17 There's been a significant -- there is ongoing a
18 significant changing of the guard with regard to
19 water management of northwest Kansas.

20 First, I've mentioned Wayne Bossert's name
21 as manager of the Northwest Kansas Groundwater
22 Management District Number 4. Wayne has been
23 manager for 36 years, this district, and will be
24 retiring on October 1.

25 Thank you, Wayne, for your many years of

09:30 AM

1 dedicated and excellent service to your district,
2 and really to the citizens of Kansas through your
3 leadership in the groundwater management district.

4 His replacement is here today, Kate
5 Wilkins-Wells. We look forward to working with
6 you in the future.

7 In addition, Scott Ross, our long-time
8 water commissioner for the Stockton field office
9 of the Division of Water Resources is retiring
10 tomorrow. Scott has been with the division for 32
11 years, and has been water commissioner for the
12 Stockton field office for 27 years.

13 So we'll have a few words to recognize his
14 contributions to the RRCA at the end of our agenda
09:30 AM 15 this morning. But I would like to acknowledge the
16 excellent long-term leadership that he has
17 provided to the division's field operations for
18 northwest Kansas. He has done an outstanding job.

19 Again, I'm sure we're going to make it
20 through this, but again, we have two giants of
21 water management that we're going to see move on.
22 So that concludes my report. I guess I would move
23 to Colorado.

24 COMMISSIONER WOLFE: Thank you, Chairman
25 Barfield. And thank you for your report, and the

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09:31 AM 1 details and the description of all the work that's
2 been ongoing with the Compact Administration this
3 past year, in light of the number of arbitrations,
4 and the trial before Special Master Kayatta, in
5 Portland, Maine. And because of that, I'd like to
6 first take this opportunity to thank my staff,
7 particularly those individuals here today, Scott
8 Steinbrecher, and Ivan Franco, Mike Sullivan, Pete
9 Ampe with the District, Dave Keeler, and for all
10 of their help over this past year. It's been a
11 tremendous amount of effort.

12 As Chairman Barfield has indicated, to
13 dedicate the necessary resources that the Compact
14 and FSS requires to take action on these matters
09:32 AM 15 that come before the RRCA, and for better for
16 worse, it's the timing of these things, the way
17 they came out, and we've had several of them
18 before us, as Chairman Barfield indicated.

19 So certainly I could not have done what I
20 have done over this past year to address these in
21 my capacity as commissioner and to take the
22 necessary actions that we did without all the help
23 and resources that these individuals have
24 provided. And I know each of the states,
25 likewise, probably have respective staff that have

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09:32 AM 1 assisted them in those efforts.

2 I'd also like to just thank all of the
3 efforts, again, of the Republican River Water
4 Conservation District. Mr. Ampe and Mr. Robbins,
5 Deb Daniel. Their board have done over this past
6 year, and frankly, over almost the past ten years
7 since the creation of their district in 2004, to
8 help Colorado in its efforts to achieve Compact
9 compliance. We certainly could not have done it
10 without them, and ultimately we could not have
11 done it without the water users in the Basin. And
12 as I've reported in the past, these individual
13 irrigators in the Basin have committed somewhere
14 around a hundred million dollars of their own
09:33 AM 15 money in efforts to achieve Compact compliance in
16 the Republican River Basin.

17 That's just a monumental effort. And when
18 you compare that to some of the other efforts, and
19 compliance efforts around the state that Colorado
20 has dealt with, this is huge. It's amazing the
21 resources that these individuals and efforts
22 they've taken to solve the local problem without
23 the state coming in and doing this. The state has
24 provided a loan to the district to help in the
25 construction of the Compact Compliance pipeline,

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09:34 AM 1 but they've committed over the next 20 or 30 years
2 to pay that back to the state, with interest.

3 And so I've just got to commend them,
4 again, for all of those efforts. They continue
5 just tirelessly to work with the water users out
6 there, and trying to take additional lands out of
7 production through buyouts and through the CREP
8 program. I know they're continuing to do that.

9 I know Mr. Robbins has spent many hours
10 working back in DC, lobbying for efforts to get
11 the actions approved under the farm bill for the
12 CREP program, not only in the Republican River
13 Basin, but in the Rio Grande Basin in Colorado.
14 This has been a very effective means for Colorado
09:34 AM 15 in its efforts to take land out of production in
16 an effort to reduce its consumptive use in the
17 basin, so that we're within our allocations that's
18 afforded under the Compact.

19 I won't really provide really any more
20 details than what Chairman Barfield indicated in
21 terms of Colorado's efforts that it's undertaken,
22 in regards to its efforts for Compact compliance
23 specifically with the Compact Compliance Pipeline
24 and the efforts with Bonny Reservoir.

25 As Chairman Barfield indicated, those are

09:35 AM 1 currently under arbitration, and we have been and
2 continue negotiations with Kansas, to try to seek
3 ultimate approval of those two proposals. And we
4 will -- it's Colorado's intent to achieve Compact
5 compliance as soon as possible, and these two
6 proposals that are before the Compact
7 Administration are critical in terms of those last
8 steps that Colorado has undertaken over the last
9 several years to achieve Compact compliance. So
10 we're going to continue to work very diligently,
11 and dedicate all the necessary resources, to make
12 sure that that happens in a very timely manner.

13 Unless there's any questions, that
14 concludes my report.

09:36 AM 15 CHAIRMAN BARFIELD: Thank you,
16 Commissioner Wolfe. I have no questions.
17 Commissioner Dunnigan, Nebraska's report.

18 COMMISSIONER DUNNIGAN: Thank you,
19 Chairman Barfield, for hosting this year's annual
20 meeting. We really appreciate it. Once again I'm
21 happy to report that the state of Nebraska is in
22 compliance with the Republican River Compact.

23 Using accounting procedures, Nebraska has
24 had a positive balance since 2007, which has led
25 to compliance with the five year average. Based

09:36 AM 1 on preliminary estimates, Nebraska will, again, be
2 in compliance for the two year and five year
3 period ending in 2013.

4 As I reported last year, 2012 saw drought
5 conditions once again creep into the Basin. In
6 fact, 2012 was the warmest and driest year in 118
7 years of record-keeping for the state of Nebraska.

8 However, Nebraska's compliance efforts
9 through 2013 have been substantial, affording
10 Kansas water users access to Kansas allocations.

11 This has occurred as prescribed through
12 the implementation of the third generation
13 integrated management plans which contain
14 forecasting provisions and accompanying controls
09:37 AM 15 that have ensured that Nebraska would take
16 sufficient actions for Compact Compliance in 2013.

17 These forecasting procedures have proven
18 to be a significant advancement over what was
19 available to Nebraska during the previous drought.

20 While no actions were triggered for 2012,
21 Nebraska, nevertheless, achieved a positive
22 balance in the absence of additional actions.

23 For 2013, the conservative dry year
24 projections proactively identified potential for
25 noncompliance, thereby providing the necessary

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1 information to proactively reduce and offset
2 consumptive levels necessary to ensure Compact
3 compliance.

4 The Basin NRDs continue to demonstrate an
5 ongoing commitment for compliance through their
6 significant investment in programs and projects
7 that will reduce and/or offset depletions
8 throughout the Basin.

9 These include the augmentation project in
10 Rock Creek Sub-basin which provided water for
11 compliance in 2013, and the augmentation project
12 in Medicine Creek, which is planned to be
13 operational in 2014, to assist Nebraska with
14 compliance going forward.

09:38 AM

15 Other provisions have included the
16 permanent and temporary retirement of surface and
17 groundwater irrigated lands throughout the Basin.
18 Nebraska also continues to invest in the science
19 necessary to support future sound management
20 decisions.

21 The department is continuing to develop
22 modeling tools and support evaluation and
23 potential injunctive management options throughout
24 the basin.

25 The department looks forward to working to

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09:38 AM 1 assess various water management alternatives
2 through the WaterSMART Basin Studies Program and
3 utilize the tools that have been developed as part
4 of this study to evaluate system improvements and
5 operational improvements that can be made
6 throughout the Basin.

7 Nebraska has brought several time-critical
8 issues before the RRCA to be addressed over the
9 last year. Although Nebraska and Colorado have
10 agreed on these issues, they remain unresolved by
11 the RRCA.

12 The fundamental problem is that Kansas has
13 repeatedly verified various legal and technical
14 requirements for which Nebraska and Colorado find
09:39 AM 15 no foundation. Therefore, Nebraska seeks from
16 Kansas a clear and transparent process, the
17 parameters of which are rooted in the four corners
18 of the Compact and FSS, but can be utilized in
19 working to resolve issues related to
20 implementation of key components provided within
21 the FSS. Short of such a clearly defined process,
22 Kansas has forced Nebraska and Colorado to rely on
23 the dispute resolution process laid out in the
24 FSS, as it appears the only means to seek
25 resolution of these issues.

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1 In closing, I reiterate that Nebraska will
2 continue to comply with the Republican River
3 Compact. The State will continue to proactively
4 evaluate the conditions within the Basin and make
5 the necessary adjustments to remain in compliance.
6 We will continue to work with all stakeholders in
7 the Basin, including the other states, the NRDs,
8 Bureau of Reclamation, and water users, as we look
9 to enhance our management efforts in the future.

10 I will now have Tom O'Conner give a report
11 on water administration in the Republican Basin
12 for calendar year 2012. Tom.

09:40 AM

13 TOM O'CONNER: Thank you. This is the
14 report of the Water Administration activities for
15 the Republican River Basin in Nebraska for the
16 calendar year 2012.

17 January 17th, letters were sent to
18 irrigators reminding them that the 2011 Water Use
19 Reports must be filed with the Cambridge Field
20 Office, or they would be closed for irrigation in
21 2012.

22 On January 25th, 16 open notices were
23 issued to storage permits that had been previously
24 closed.

25 February 6th, 18 closing notices were

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1 issued to water users that failed to submit their
2 required annual Water Use Reports. These water
3 users were not allowed to divert water during the
4 2011 calendar year.

5 July 24th, 13 closing notices were issued
6 to water users and storage permit holders between
7 A-3629 and Arapahoe, Nebraska, notifying them that
8 they shall not divert water until further notice.

9 July 24th, one regulating notice was sent
10 to an irrigator in the Republican River Basin
11 notifying them of the legal amount they could
12 pump.

13 August 31st, 13 closing notices were sent
14 to storage permit holders in the Republican Basin.

09:41 AM

15 October 24th, 13 opening notices were
16 issued to permits that had been previously closed.

17 December 11th and 12th. Water Use Reports
18 were mailed to all IR permits, that's irrigation
19 from a natural stream; SI, which is irrigation
20 from reservoirs on lands also covered by a natural
21 flow appropriation; and SO, irrigation from
22 reservoirs on lands not covered by natural flow
23 appropriation, permits in the Republican Basin,
24 with the exception of federally owned canals.

25 That concludes the Water Administration

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09:42 AM 1 report.

2 COMMISSIONER DUNNIGAN: Thank you, Tom.

3 I'd like to ask Dr. Jasper Fanning,
4 manager of the Upper Republican NRD, to provide an
5 update on augmentation projects within the Basin.

6 DR. JASPER FANNING: Thank you, Director
7 Dunnigan. As you mentioned earlier, the Rock
8 Creek project constructed by the Upper Republican
9 Natural Resources District is operating this year.
10 That project was constructed to offset depletions
11 within the Rock Creek Sub-basin, is where it
12 delivers water.

13 The capacity of that project is about
14 20,000 acre-feet on an annual basis. The district
09:43 AM 15 spent between 24 and 25 million dollars to
16 construct that project, and it will cost the water
17 users of the district approximately 42 and-a-half
18 million dollars by the time everything's paid off.

19 At the same time that that project was
20 being completed, we were working in conjunction
21 with the Middle and Lower Republican Natural
22 Resources Districts in the Republican Basin, along
23 with the Twin Platte Natural Resources District in
24 the Platte Basin, to construct the N-CORPE project
25 that was discussed earlier. That project has

09:43 AM 1 capacity of approximately three times that of Rock
2 Creek to the Republican Basin in the Medicine
3 Creek Watershed, it can deliver 60,000 acre-feet
4 per year. The share of the costs attributable to
5 the Republican Basin NRDs, the Upper, Middle and
6 Lower, will be approximately 86 million dollars,
7 and will cost about 150 million dollars by the
8 time the project is completed.

9 At this time the N-CORPE board has issued
10 and awarded contracts for construction of the well
11 field and the pipeline to Medicine Creek at a cost
12 of approximately 22 million dollars, with
13 easements, pipeline, and well field. The land
14 purchase up there, there was about 16,000
09:44 AM 15 irrigated acres that were taken out of production,
16 most of which was contiguous in southern Lincoln
17 county. That project, according to the
18 construction schedule, will be awarded a contract.
19 The pipeline should be completed sometime December
20 of this year. And the well field will be brought
21 online shortly thereafter. That is the plan at
22 this time. And that's all I have. Thank you.

23 COMMISSIONER DUNNIGAN: Thank you, Dr.
24 Fanning. That concludes Nebraska's report.

25 CHAIRMAN BARFIELD: Thank you,

09:44 AM 1 Commissioner Dunnigan.

2 COMMISSIONER WOLFE: Chairman Barfield?

3 CHAIRMAN BARFIELD: Yes.

4 COMMISSIONER WOLFE: Just quickly, before
5 we conclude the reports, I was remiss in not
6 mentioning someone else in our team who is
7 critical, Dr. Willem Schreuder, who's in the back
8 of the room. He's certainly a silent giant,
9 certainly for us, and he's been very critical and
10 instrumental, and I know he has not only assisted
11 Colorado, but provides support to the RRCA, and
12 the other two states as well for the model. So,
13 thank you, and I apologize for not mentioning that
14 in my report.

09:45 AM 15 CHAIRMAN BARFIELD: All right, thank you,
16 Commissioner Wolfe.

17 Okay, we'll move to the next agenda item,
18 which is federal reports. Aaron Thompson, area
19 manager, will give the report for the Bureau of
20 Reclamation.

21 AARON THOMPSON: Good morning. I'm Aaron
22 Thompson, representing Reclamation's
23 Nebraska-Kansas area office. I've given a copy of
24 our annual report to the RRCA commissioners. I
25 think I gave a couple copies to each. We did have

09:45 AM 1 some leftover copies, so for those of you in the
2 audience, on the back table are some leftover
3 copies of our annual report, if you're interested.
4 I will not go through the report word by word, but
5 just highlight a few things.

6 It contains the 2012 operations for our
7 reservoirs, including precipitation data, end of
8 month elevations for the federal reservoirs in the
9 Basin.

10 One thing I would like to highlight is our
11 Safety of Dams Project at Red Willow Dam. The
12 reconstruction related to the safety of the dam's
13 modifications at Red Willow Dam are, essentially,
14 complete, including placement of the geonet sand
09:46 AM 15 and gravel filtration system along the entire
16 length of the dam.

17 And just to give you a few facts about
18 that filtration system; it involved placing nearly
19 115,000 square yards of geonet and geotextile
20 materials, 100,000 cubic yards of sand, 55,000
21 cubic yards of gravel. The system was overlaid
22 with approximately 430,000 cubic yards of
23 embankment material.

24 The construction is essentially complete.
25 There was a contract modification to include

09:47 AM

1 stabilization of the access road, and paving the
2 crest of the dam, and those modifications are
3 expected to be completed in early spring.

4 I would also like to highlight our
5 WaterSMART Basin Study Program. The states of
6 Colorado, Nebraska, and Kansas, and the U.S.
7 Department of Interior Bureau of Reclamation are
8 working together as study partners to conduct the
9 Republican River Basin Study. This study is part
10 of the U.S. Department of Interior WaterSMART
11 Basin Study Program.

12 I would like to thank each one of the
13 commissioners for the collaborative nature in
14 which this study has moved forward. It's a
09:47 AM 15 two-year study, and we are nearly ending our first
16 year, and I think we're headed down a track of
17 providing a basin study that will evaluate the
18 viability and water management strategies to
19 optimize surface and groundwater use, in
20 consideration of the multiple demands and the
21 potential effects of climate change and
22 variability. And that concludes my comments this
23 morning.

24 CHAIRMAN BARFIELD: Thank you. Any
25 questions for Mr. Thompson? Commissioner Wolfe?

09:48 AM

1 COMMISSIONER WOLFE: Thank you, Chairman.
2 Aaron, I'd just like to thank you, again, for your
3 efforts, and those of Craig Scott, as well,
4 working with Colorado in the past year in regards
5 to Bonny Reservoir, and since it has been drained,
6 and the additional issues that have come up there
7 regarding sedimentation, and weed issues around
8 there. We appreciate your cooperation, working
9 with us and the local people there, to address
10 that issue, and hope we can continue working on
11 that to ensure that those do not create an issue
12 for us, nor you, in terms of operation of that
13 dam. So thank you.

09:49 AM

14 AARON THOMPSON: Thank you, Commissioner
15 Wolfe, for those comments. And Mr. Ross, it's
16 been great working with you. We'll miss you.

17 CHAIRMAN BARFIELD: All right, thank you,
18 Mr. Thompson. The next agenda item, we have an
19 opportunity for a report by the U.S. Army Corps of
20 Engineers. I do not believe anyone is present for
21 the Corps of Engineers.

22 Very good. Then we will skip over that
23 item.

24 Agenda Item 6 (c) then is a report from
25 the U.S. Geological Survey. John Miller is here

09:49 AM 1 to provide that report.

2 JOHN MILLER: Thank you for this
3 opportunity to present the Republican River
4 Streamflow-Gaging Collecting Data in Nebraska.
5 I'd also like to thank the folks in Kansas on
6 short notice of getting the projector set up. I
7 probably should have given you some formal warning
8 on my needs.

9 Well, the first -- this is just a copy of
10 the -- of the sheet that's coming around. It's a
11 summary chart of the 2012 water year mean
12 discharges as compared to the period of record.
13 I'll just jump right into the sites here.

14 The first set of sites we're going to go
09:50 AM 15 through are sites that are solely operated by the
16 U.S. Geological Survey funded through the NSIP
17 program, it's a National Streamflow Information
18 Program. And we'll be going in downstream order.

19 Starting with the Arikaree River at
20 Haigler. And just on all of these sites, I'm just
21 going to point out the annual mean discharge for
22 the 2012 water year, and as they compare to the
23 period of record, and the corresponding ranking.

24 The mean discharge for the 2012 water year
25 at Arikaree was .65 cfs, and that compares with a

09:51 AM 1 running mean of 16.7. Its ranking is 77 out of 80
2 years of record.

3 Next site is the North Fork of the
4 Republican River. No, I don't want to do that.
5 There we go. The mean for the 2012 water year was
6 20.5 cfs as compared to a running mean of 41.6
7 cfs. And that is the lowest ranking in the period
8 of 77 years of record.

9 The next site is the Buffalo Creek near
10 Haigler. Its mean discharge was 2 cfs, again,
11 with the lowest ranking of 72 out of the 72 years
12 of record. And it compared with the running mean
13 of 6.1 cfs.

14 The next site is the Rock Creek at Parks
09:52 AM 15 site. 2012 mean was 5.86 compared to the running
16 mean of 11.9 cfs. Again, that's the lowest
17 ranking in 72 years of record.

18 The next site is the South Fork Republican
19 River near Benkelman. 2012 mean was 13.0 cfs,
20 compares to the running mean of 35.1. In 75 years
21 of record, its ranking was 61.

22 The next site is Frenchman Creek at
23 Culbertson. The mean for the 2012 water year was
24 30.1 cfs, compared to a running mean that is post
25 Enders Reservoir development. That mean was 66.7.

09:53 AM

1 And its ranking was 59 out of 62 years of record.

2 The next site is Driftwood Creek near
3 McCook. The mean for 2012 was 6.79 cfs, compared
4 to a running mean of 8.38. Over 66 years of
5 record, and its ranking is 38.

6 The next site was Red Willow Creek near
7 Red Willow. Had a mean of 15.7 cfs, compared to a
8 running mean of 13.8. If I'm reading that right.
9 Again, that was post Hugh Butler Reservoir
10 development. And its ranking was 12 out of 51
11 years of record.

12 Sappa Creek near Stamford, had a mean for
13 2012 year of 17.5 cfs, compared to the running
14 mean of 39.0. And its ranking was 33 out of 66
15 years of record.

09:54 AM

16 The last site in this set is the Courtland
17 Canal site. Courtland Canal diverts water from
18 the Republican River to the Lovewell Reservoir in
19 Kansas.

20 Mean for the 2012 year was 74.4 cfs
21 compared to a running mean of 75.4, for a ranking
22 29 out of 58 years of record.

23 These next set of sites are operated by
24 the U.S. Field -- field operations are by the U.S.
25 Geological Survey, but its federal match, and

09:55 AM

1 state and local match through the cooperative
2 program by the USGS. The first site is the
3 Republican River at Stratton. Had a mean for the
4 2012 water year of 32.4 compared to a running mean
5 of 94.8. That ranking is 54 out of 62 years of
6 record.

7 The next site is Republican River at
8 McCook. Had a mean of 41.3 for the 2012 water
9 year, compared to a running mean of 125.3 for 58
10 years of record. Gives it a ranking of 53.

11 The last site in this set is the
12 Republican River near Orleans. Had a mean of 103
13 for the 2012 water year, compared to a running
14 mean of 230. That gives it a ranking of 57 out of
15 65 years of record.

09:56 AM

16 The last couple of sites are sites where
17 the field operations are conducted by the Nebraska
18 Department of Resources, and the USGS and U.S.
19 Army Corps of Engineers provides DCPs for web
20 display and data review.

21 The first site is the Frenchman Creek at
22 Palisade, had a mean of 18.5 cfs for the 2012
23 water year. Compared to a running mean of 60.8.
24 And this, again, is post Enders Reservoir
25 development. And the ranking is 60 out of 62

09:57 AM 1 years of record.

2 And the final site is the Republican River
3 at Cambridge. Had a mean of 105 cfs for the 2012
4 water year, compared to a running mean post Harry
5 Strunk Reservoir of 212 cfs. Gives it a rank of
6 58 out of 63 years of record.

7 And that is my last slide. And here's
8 some information on the senior staff in our
9 Lincoln office. And that is my presentation.

10 CHAIRMAN BARFIELD: Okay, thank you,
11 Mr. Miller. Any questions for Mr. Miller? All
12 right, hearing none. Thank you very much.

13 The next item on the agenda is committee
14 reports. And we'll hear the Engineering Committee
09:58 AM 15 Report from Scott Ross.

16 SCOTT ROSS: Okay. We've worked through
17 the 2012 Engineering Report for the meeting that
18 was conducted on October 16th. The assignments
19 that were given, I'll briefly give you the
20 assignments and the activities.

21 We were assigned to finalize work on the
22 user's manual. We have considered that, and are
23 recommending for the 2013 action that that task be
24 removed from the list of assignments, and that
25 each state produce, with their accounting, a

09:59 AM 1 procedure upon which that data was being recorded.

2 States exchanged the required accounting
3 data on April 15th, 2012. Kansas/Nebraska posted
4 their online results on April 15th. Willem
5 Schreuder, Principia Mathematica, completed the
6 preliminary version, or preliminary run, and
7 posted on April 27th, 2012. States exchanged
8 final data on September 20th, 2012, and Principia
9 Mathematica completed a final run of this data on
10 October 4th, 2012.

11 The committee collected stream flow and
12 climate data in cooperation with the Bureau of
13 Reclamation, and Army Corps of Engineers, and the
14 U.S. Geological Survey.

10:00 AM 15 We were assigned to continue efforts to
16 resolve concerns related to varying methods of
17 estimating groundwater and surface water recharge.
18 Kansas provided literature that we believe support
19 a revisiting of that issue. And that was about
20 all that happened. That issue is still under
21 review.

22 We were assigned to perform an ongoing
23 maintenance -- or retain Principia Mathematica.
24 That's still under discussion. Billable costs to
25 each state not to exceed \$15,000. Each state is

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1 separately contracted with Principia Mathematica
2 for calendar year 2012.

3 Continue development of five year
4 accounting spreadsheets. The Committee considered
5 that. Each state is performing their own, and we
6 are recommending that the administration remove
7 those -- remove that assignment, as each state is
8 doing fine on their own individual five year
9 spreadsheet.

10 Continue to review Colorado's augmentation
11 proposals as appropriate. That has been largely
12 done through the administration and special
13 meetings and arbitrations.

10:01 AM

14 Continue efforts to finalize 2006 to 2010
15 accounting. Much of this is subject to the
16 current Supreme Court case, and additional work
17 pending arbitrations. No further efforts were
18 made in regard to finalizing the accounting.

19 Continue discussion of issues preventing
20 agreement on the final accounting. Again, those
21 are primarily being held up by the Supreme Court
22 case, and pending arbitrations.

23 We were assigned to develop a procedure to
24 account for inflow of stream segment between Guide
25 Rock diversion dam and the relocated stream flow

10:02 AM 1 gauge. After some discussion and review, Nebraska
2 decided to install a second, or an additional
3 stream gauge. That seems to have resolved the
4 issue, so we're recommending that that assignment
5 be removed.

6 Discussed application of revised Bonny
7 area capacity tables to the current past
8 accounting. That proposal has been -- Kansas has
9 agreed to apply the area capacity tables to the
10 2011 and '12 data. Colorado's asked to
11 retroactively apply the area capacity table to
12 2007 through 2010.

13 I believe the committee has taken some
14 action on -- or made some recommendations on that.
10:02 AM 15 But Kansas agrees to include that information, and
16 I believe a resolution will be forthcoming today.

17 Discuss any kind of changes that may be
18 needed for surface water diversions for the
19 purpose of recharging groundwater. We didn't
20 continue any discussion with that. I am
21 anticipating that that is something that may need
22 to be retained as an assignment.

23 Discussed developing a framework for the
24 application of approval process for future
25 augmentation plans. The engineering committee

10:03 AM

1 recommends that that be continued, but with the
2 pending arbitrations, further direction may be
3 available subsequent to those arbitrations.

4 Apply the procedure described in Exhibit A
5 of the 2011 Engineering Committee Report, fill in
6 any missing precipitation data for the Compact
7 years of 2008, nine and ten, and for subsequent
8 years. This task was completed on September 7th,
9 2011 with some minor modifications.

10 We believe we've attached the Exhibit A to
11 the 2012 Engineering Committee Report, that should
12 finalize that matter.

13 Discussed archiving the data and materials
14 from the Conservation Committee's study. Final
15 recommendation will be made at the annual meeting.
16 Several locations and web sites are certainly
17 possible for that.

10:04 AM

18 Amend the RRCA Rules and Regulations as
19 discussed on page 76 out of the 2010 transcript.
20 The draft rules were discussed and we'll be making
21 a final draft. It's being prepared for a future
22 RRCA meeting.

23 We recommend that the assignments be
24 continued as to exchange information, continue
25 efforts to resolve concerns relating to varying

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10:04 AM 1 methods of estimating groundwater recharge.

2 Retain Principia Mathematica in ongoing --
3 retain Principia Mathematica was an assignment for
4 the 2012 -- excuse me, 2013 committee.

5 And continue efforts to finalize
6 accounting for 2006 to '11.

7 Continue discussion of issues preventing
8 agreement on final accounting.

9 Develop a procedure for accounting of
10 inflows to the stream flow segments of Guide Rock.

11 Discuss any accounting changes that may be
12 necessary to account for surface water diversions
13 used for groundwater recharge.

14 I'm covering some of these issues in the
10:05 AM 15 highlight of the 2011 report. From 2011.

16 And those assignments were acted upon in
17 2012.

18 Do you want the committee's report this
19 morning? Or, are we ready for that?

20 CHAIRMAN BARFIELD: Yes.

21 SCOTT ROSS: Okay. We did exchange some
22 data by April 15th. Willem Schreuder, Principia
23 Mathematica, ran those numbers, April 15th, 2013.

24 Principia Mathematica ran the numbers for
25 all three states, giving us preliminary data, and

10:06 AM 1 posted that April 16th.

2 Kansas and Nebraska had their final data
3 posted by August 30th. And as of August 30th,
4 Colorado had posted the CIR data, but that does
5 not include metered pumping data. Principia
6 Mathematica posted a final run September 10th,
7 2013, and this model run utilized the no Bonny
8 scenario, as proposed by Colorado, which is
9 currently subject to arbitration.

10 The committee collected streamflow data,
11 climate data, diversion records from the U.S.
12 Geological Survey, Bureau of Reclamation Army
13 Corps of Engineers for 2012.

14 Evaluate ways to standardize estimating
10:07 AM 15 groundwater recharge. That was a continued
16 assignment. The information is still under
17 review.

18 Review the contract of Principia
19 Mathematica. The committee recommends that
20 assignment, to continue discussions on specific
21 modeling and data tasks to be assigned to
22 Principia Mathematica, and this assignment should
23 be completed by December 15th, 2013. That's the
24 committee's recommendation.

25 Continue efforts to finalize accounting

10:07 AM

1 for 2006-2012, pending the Supreme Court decision
2 and any issues related to the pending arbitration.

3 Continue to discuss issues preventing
4 agreement on final accounting. Again, subsequent
5 to any Supreme Court case decision and pending
6 arbitration.

7 Develop a recommendation on whether or not
8 to account for inflows to stream segment between
9 Guide Rock and the relocated stream gauges.
10 That's been resolved.

11 Discuss any changes in the surface water
12 diversions, proposed groundwater. Nebraska
13 anticipates those studies will be conducted during
14 a wet year. We hope 2014 will be such a year.

10:08 AM

15 And so that's recommended for continuation.

16 Discuss application approval for
17 augmentation process. Augmentation plan process
18 is subject to current arbitration. No progress
19 was made on this task in 2013.

20 Finalize the proposal to describe Exhibit
21 A of the 2012's Engineering Committee. That has
22 been completed. It's signed and will be attached
23 to this Engineering Committee Report.

24 Finalize work on the user manual. Again,
25 we recommended that that be -- I believe that

10:09 AM 1 matter can best be resolved by each state, and
2 doesn't need to be continued.

3 Continue development of five year
4 accounting spreadsheet. We believe that's another
5 issue that could be removed from the Engineering
6 Committee's accompanying task list.

7 Discuss the application of the revised
8 Bonny Area Capacity Table. I believe there will
9 be a resolution this morning related to that, and
10 its retroactive application to the accounting.

11 We want to make a recommendation that the
12 administration recognize that this does not in any
13 way change any of the USBR technical -- or
14 accounting for water year, and that it is
10:09 AM 15 possible, because there were names unapproved RRCA
16 accounting for those years, 2007 through 2012.

17 And our recommended assignments, the
18 Engineering Committee is recommending assignments.
19 The Engineering Committee had a quarterly review
20 of these tasks and assignments.

21 Exchange data by April 15. The
22 Engineering Committee recommends an assignment of
23 continued discussion of modeling and data tasks
24 with Principia Mathematica, again to be
25 accomplished by December 15th, 2013.

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10:10 AM

1 Continue efforts to resolve concerns
2 related to estimates of groundwater recharge.

3 Continue efforts to finalize accounting
4 for 2006 to 2012.

5 Continue discussion preventing agreement
6 on final accounting.

7 Discuss any accounting changes that may be
8 needed for surface water diversions for the
9 purpose of groundwater recharge.

10 Discuss developing an application and
11 approval process for future augmentation plans.

12 And the Engineering Committee will explore
13 options for sharing evaporation charges for Harlan
14 County Lake, when the accounts exist separate from
10:11 AM 15 project water supplies of Bostwick Irrigation
16 District.

17 Further to explore potential means to
18 adjust Compact accounting of Harlan County Lake
19 for the mutual benefits of all the states.

20 The Committee will engage in discussions
21 to establish a budget to accomplish such tasks as
22 needed by the administration of the states to
23 complete Compact orders.

24 And that concludes the Engineering
25 Committee Report.

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10:11 AM

1 CHAIRMAN BARFIELD: Okay. So that was,
2 just for the record, the first part of your report
3 was a review of the 2012 Engineering Committee
4 Report, and the second was highlighting your
5 actions for 2013, correct?

6 SCOTT ROSS: Correct.

7 CHAIRMAN BARFIELD: Okay. And I think we
8 need some additional discussion, maybe. You
9 mentioned something about a resolution on this
10 retroactive application of the Bonny area capacity
11 table. Commissioner Wolfe, do you have something
12 on that?

10:12 AM

13 COMMISSIONER WOLFE: Yes, I do, Chairman
14 Barfield. I appreciate your indulgence on this.
15 I think maybe we can try to take care of a couple
16 of issues that are referenced in the committee
17 reports and recommendations prior to taking action
18 on the report recommendations, in case there's any
19 need to modify these.

20 First, I'd like to suggest that the
21 commissioners act on a resolution regarding Bonny
22 Reservoir that's dealing with the activities
23 that's referenced in item 12(a) of the -- well,
24 12(a) and 12(b) of the committee's report.

25 With the assistance of my attorney here

10:12 AM 1 this morning, on the fly, we've come up with a
2 proposed resolution to memorialize that aspect,
3 just to make sure that it's not as a reference or
4 activity that was done by an engineering
5 committee, but based on our discussion yesterday,
6 I'd like to have official action on that by the
7 Compact Commissioners.

8 So if you'll indulge me, I'll read in for
9 the record what I would propose as a resolution
10 for us to act on.

11 WHEREAS, the RRCA accounting from 2007 to
12 2011 remains unapproved.

13 WHEREAS, the Bureau of Reclamation
14 completed a revised area capacity table for Bonny
10:13 AM 15 Reservoir in 2011.

16 WHEREAS, Colorado had been requesting the
17 Bureau of Reclamation to revise the area capacity
18 table for many years prior to 2011.

19 WHEREAS, the revised area capacity table
20 more accurately reflects conditions in Bonny
21 Reservoir, and the amount of water stored therein,
22 as well as the surface area of that storage water.

23 NOW THEREFORE, the states of Colorado,
24 Nebraska and Kansas agree to adopt the Revised
25 Bonny Reservoir Area Capacity Table and apply it

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10:14 AM 1 to the 2007 accounting and forward. That change
2 will be effective when the accounting for 2007 and
3 afterwards is approved. The retroactive
4 application of the 2011 survey to this particular
5 RRCA accounting will have no effect on official
6 Bureau of Reclamation records.

7 And I can certainly pass this to the other
8 commissioners to review prior to taking action, if
9 you're so inclined to do so at this time.

10 CHAIRMAN BARFIELD: I take that as a
11 motion then?

12 COMMISSIONER WOLFE: That -- I would
13 request that that be a motion to the commission.

14 CHAIRMAN BARFIELD: To adopt it? I can
10:14 AM 15 second for discussion purposes here. Any
16 discussion?

17 Certainly, I think, for my part, that's
18 consistent with the discussion we had yesterday
19 with respect to this issue. And again, as
20 Commissioner Wolfe has indicated, the last area
21 capacity table for Bonny Reservoir was prepared in
22 1950, and certainly the current table reflects a
23 much better representation. And there haven't
24 been any significant inflow events in the period
25 you're requesting here. So, I think for the

10:15 AM 1 reasons stated in your resolution, and pursuant to
2 our discussion yesterday, we could support this
3 resolution.

4 Any further discussion then? Okay. All
5 in favor of the resolution, say "Aye."

6 COMMISSIONER WOLFE: Aye.

7 COMMISSIONER DUNNIGAN: Aye.

8 CHAIRMAN BARFIELD: Aye. Any opposed?
9 Okay. The resolution then passes.

10 COMMISSIONER WOLFE: Thank you, Chairman.

11 The second issue I'd like to just continue
12 in further discussion, clarification, is in
13 regards to the Engineering Committee's activities
14 and the discussion we had yesterday, and
10:16 AM 15 recommendations that's highlighted in item 3 of
16 the Recommendations on page 3, referring to the
17 modeling and data tasks that are assigned to
18 Principia Mathematica.

19 I appreciate the committee's efforts in
20 that regard to address this issue in an ongoing
21 fashion. Certainly, there was quite a bit of
22 discussion on this yesterday. And I guess in
23 light of that discussion yesterday, I guess I'd
24 ask Chairman Barfield, if Kansas has had any
25 further consideration, or has made any particular

10:16 AM 1 decisions based on those discussions yesterday on
2 this matter, and how you would view this going
3 forward, in light of the proposed recommendation
4 by the Engineering Committee?

5 CHAIRMAN BARFIELD: Well, we have not had
6 further discussions since yesterday. I believe
7 how we left the matter was that it is an
8 Engineering Committee assignment to, basically,
9 consider the various tasks that he has completed,
10 and how they might work going forward. And I
11 think we agreed in that context to provide some
12 more definite feedback on our views in the near
13 future.

14 COMMISSIONER WOLFE: Thank you. And I
10:17 AM 15 guess in light of that, and the recommendation,
16 what I think would probably be necessary is for
17 the Compact Administration to consider a special
18 meeting on or around December 15th to take action
19 on any recommendations in regards to that effort.
20 Principally, because Dr. Schreuder will be doing
21 ongoing efforts in regards to these activities
22 that he's been doing for the RRCA for many years
23 now. I'd hate for us to get too far down the road
24 again and for him to, as he said yesterday, to
25 heap additional cost on these efforts, so I'd like

10:18 AM 1 to make sure that we give him proper direction on
2 that.

3 So I'd ask that, for your consideration,
4 that we could take action on that. And I guess as
5 part of that, from the discussion yesterday, some
6 of the things that came to mind for me, and I'd
7 like to reiterate the importance of the efforts
8 that Dr. Schreuder's been doing on behalf of the
9 commission, and creating a consistent method and
10 results for compilation of this information, and
11 posting the RRCA data and model results on a
12 common web site, I think we've all seen great
13 benefits from that.

14 Caution us against trying to create any
10:18 AM 15 duplicate official models, transferring this
16 obligation between the states every couple years.
17 I know that that was talked about. I've just seen
18 from my experience invariably that this method, by
19 doing that, could change, the format could change,
20 and it could lead to inconsistent results over
21 time.

22 And I think what Willem's performance has
23 been over the past several years has been very
24 consistent. I don't think any of the states have
25 questioned his activities, or his integrity of

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10:19 AM 1 providing that information and the results.

2 As he indicated, too, it's, I think, a
3 very minimal cost to the states capped at \$4,000
4 each year for those efforts.

5 So I'd recommend as consideration that
6 this committee looks at this before we take action
7 in December on to what extent we continue this,
8 that all the states think of those activities and
9 the benefits that it creates.

10 It, in my mind, creates kind of a
11 difficult situation in this thing about, you know,
12 you pay for the play of what you're getting out of
13 this. And if you're going to play and having all
14 the benefits of these efforts, we think all the
10:20 AM 15 states should share equally in those. And I think
16 it would put us all in a very difficult situation
17 if all three states aren't cooperating and
18 collaborating on this effort. I think it puts
19 those of us who are utilizing Dr. Schreuder for
20 those services, and what information we would make
21 available to each state if they're not
22 collectively paying in that. And it creates
23 issues of proprietary nature of the data, and how
24 do we coordinate that.

25 And I think it's something that's

10:20 AM 1 incumbent upon us, as commissioners, and all the
2 Compacts that I serve on, one of the key
3 components of that is creating comity between the
4 states, and I think that taking this effort to
5 share and working three states together in an
6 effort like this, I think is one of those enduring
7 activities that certainly demonstrates comity
8 between the states.

9 So with that, certainly if there are any
10 other questions or comments from the other two
11 commissioners before we take action on that, I'd
12 like to hear from you.

13 CHAIRMAN BARFIELD: Any comments?

14 COMMISSIONER DUNNIGAN: Yes. I'd just
10:21 AM 15 like to state that Nebraska does support working
16 with Principia Mathematica in the future as in the
17 past, and that will be our position as we work
18 forward on this assignment to the Engineering
19 Committee.

20 CHAIRMAN BARFIELD: Very good. Well, I
21 appreciate your comments and perspective stated
22 here, and I certainly agree, we're willing to sort
23 of work through the issue further, as we've talked
24 about, and I do agree that, you know, we need to
25 bring closure to this item rather than leave it

10:21 AM 1 hanging. I certainly would be willing to act on
2 this on a time basis of what you're suggesting
3 here.

4 You know, the states have all used the
5 model, we all run the model, we have a common
6 model that we've approved and adopted. We've
7 demonstrated in various forums that we're able to
8 produce results that are consistent with one
9 another.

10 So, again, we just need to talk through
11 the issues and what makes sense that we can all
12 do.

13 So, do you have a specific -- are you just
14 looking for a commitment to work to resolve the
10:22 AM 15 issue in the time frame you're talking about?

16 COMMISSIONER WOLFE: Yes, Chairman. And I
17 think maybe one way to accomplish that, something
18 in the form of a modification to Item 3 on the
19 Recommendations, that the committee will
20 accomplish their task by December 15th, and if the
21 RRCA could convene a special meeting shortly
22 thereafter to take action on that recommendation,
23 that would be my recommendation to a modification
24 to that recommendation for the Commission to act
25 on for approval for the entirety of the report.

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10:23 AM

1

CHAIRMAN BARFIELD: Well, Commissioner

2

Dunnigan will be the chair, but again, I certainly

3

support work in the time frames you're speaking

4

about. I don't know if we need a resolution or

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just that the record we're creating here is

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sufficient.

7

COMMISSIONER DUNNIGAN: I would just add

8

for the record that the Assignment 1, Engineering

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Committee will meet quarterly to review the tasks

10

assigned to the committee. This can be a priority

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assignment and we can schedule that early after

12

this meeting to address that issue.

13

COMMISSIONER WOLFE: That's acceptable.

14

CHAIRMAN BARFIELD: All right. Very good.

10:23 AM

15

That's acceptable to Kansas. Is there any other

16

discussion regarding the Engineering Committee

17

Report we need to have at this juncture? The

18

report obviously summarizes their activities, and

19

provides a list of recommended assignments for the

20

coming year that we'll address in Agenda Item

21

9(b). But is there any other discussion?

22

There is an assignment specific for the

23

Harlan County Reservoir, and we'll have a bit more

24

discussion about that later. Any other discussion

25

on the Engineering Committee Report?

10:24 AM 1 Very good. Well, I would like to suggest
2 maybe a short break at this juncture, and then we
3 could reconvene in ten minutes, and conclude the
4 rest of the agenda, if that's okay?

5 COMMISSIONER WOLFE: Chairman Barfield,
6 I'm not sure, did we actually take an action on
7 approving Engineering Report and the
8 recommendations? If not, I would move that we
9 approve the Engineering Report and the
10 recommendations that are stated.

11 CHAIRMAN BARFIELD: Mr. Wolfe, I believe
12 we do that under Agenda Item 9(b). On the report
13 and the assignment.

14 COMMISSIONER WOLFE: Okay, that will work.
10:25 AM 15 Thank you.

16 CHAIRMAN BARFIELD: Okay, we will take a
17 ten minute break then.

18 (A recess was taken, after which the
19 following proceedings were had:)

20 CHAIRMAN BARFIELD: Okay, we'll continue
21 through our agenda then. We're ready for Agenda
22 Item 8. Old business. The status of the previous
23 accountings.

24 I believe this is a carry-over from
25 previous agendas, and I believe the Engineering

10:40 AM

1 Committee has provided the basic status of these
2 accountings with respect to they have not been
3 able to complete it due to issues that are pending
4 in the litigation and in the arbitration. So I
5 don't think there's anything more to add to that
6 agenda item.

7 Very good. Then we will go to agenda item
8 9(a)(1). And Nebraska has some issues that it's
9 asked to be put on your agenda. Mr. Dunnigan.

10 COMMISSIONER DUNNIGAN: Thank you,
11 Chairman Barfield. On May 24th, I sent a letter
12 to Commissioner Barfield stating that Kansas has
13 failed to comply with its duties under Article IX
14 of the Compact by failing to administer it, and
15 therefore, violating the Compact.

10:41 AM

16 Article IX of the Compact reads in part.
17 It shall be the duty of the three states to
18 administer this Compact through the official in
19 each state, who is now, or hereafter, may be
20 charged with the duty of administering the public
21 water supplies and to collect and correlate
22 through such officials the data necessary for
23 proper administration of the provisions of this
24 Compact.

25 Kansas' unwillingness or inability to

10:41 AM

1 resolve key elements of Compact implementation is
2 harming Nebraska water users.

3 As I stated earlier this morning, Nebraska
4 seeks from Kansas a clear and transparent process
5 that can be utilized in working to resolve issues
6 related to implementation of key components
7 provided within the FSS. This process must be
8 focused on resolving and narrowing the differences
9 between the State's positions and not on delaying
10 the implementation of these key components.

11 I asked in my May 24th letter that
12 Commissioner Barfield, by September 1st, submit to
13 the RRCA a plan for ensuring that Kansas complies
14 with Article IX. Nebraska requested that this
10:42 AM 15 agenda item be added so that Commissioner Barfield
16 could discuss Kansas' plan to ensure compliance
17 with Article IX.

18 Chairman Barfield.

19 CHAIRMAN BARFIELD: Okay. Well, on August
20 30, I did provide a response to your letter, and
21 request. You know, Colorado and Nebraska are
22 seeking to implement FSS provisions, which sort of
23 changed the status quo of the accounting in some
24 profound ways, and these changes must be done
25 properly.

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10:43 AM

1 You know, Kansas disagreed with Nebraska's
2 assertions that Kansas' objections and concerns
3 that have resulted in our disagreement with the
4 proposals are -- are not founded on provisions of
5 the FSS. So the FSS provides clear procedures for
6 dealing with these matters.

7 It involves the administration, its
8 Engineering Committee, as a first level of
9 discussions of these matters in seeking to resolve
10 them. It provides a dispute resolution process
11 that's clearly laid out for working through these
12 issues.

10:44 AM

13 As I said in my report earlier, we are
14 actively engaged in those processes, and as I've
15 consistently communicated, we'll continue to be
16 ready to work these issues out in -- in those
17 venues. So that's my response.

18 COMMISSIONER WOLFE: Chairman Barfield.

19 CHAIRMAN BARFIELD: Yes, Commissioner
20 Wolfe.

21 COMMISSIONER WOLFE: Yes, I'd like to just
22 add a little bit to this discussion. I guess I
23 share, echo, some of the concerns raised by
24 Nebraska. And I think the big picture of this as
25 we're working on these efforts, that there's just

10:44 AM 1 too much time and effort and money that's being
2 spent in litigation and arbitrations. And I know
3 that's a process that's afforded under the FSS.
4 But I think what Nebraska is trying to emphasize,
5 that I think the efforts to address these issues
6 when they come before the RRCA, we should commit
7 the necessary resources to do that. We need to
8 make the sacrifices then to commit the necessary
9 resources to do that, then having as a default
10 ending up spending considerable more sacrifices
11 time, money, and effort in arbitration and
12 litigation.

13 And I mean, just to highlight that,
14 Colorado has been working almost six years on
10:45 AM 15 getting the Compact Compliance Pipeline approved.
16 And the district has, like I said, spent almost a
17 hundred million dollars to try to come into
18 compliance, and yet we have not achieved approval
19 by the RRCA on that.

20 And so, again, it just highlights this
21 thing of, we've got to find a way to work
22 together, the three states, to put the necessary
23 resources together at the very beginning and the
24 best type of resources and sacrifices in to make
25 this process work. And I know we've all got a lot

10:45 AM 1 of things on our plate that we're working on, but
2 we need to really dedicate those resources early
3 on in the process.

4 And I think that's part of what
5 Commissioner Dunnigan is trying to highlight in
6 that. And really, if, you know, if we really want
7 this process to work, I think that's where the
8 investment and time and resources have got to be.
9 I mean, we are where we are here today, but again,
10 I implore the commissioners that we need to work
11 in a cooperative and collaborative effort when
12 these issues come to the states, and really
13 dedicate the necessary resources.

14 As we heard in the meeting yesterday, I
10:46 AM 15 think the Engineering Committee met maybe one time
16 last year. If we're really going to make an
17 attempt to address these issues, I think this is a
18 great effort to recommendations that the committee
19 work on a more frequent basis as these issues come
20 up, and dedicating the necessary resources to do
21 that.

22 We've certainly, I know Chairman Barfield,
23 you and I, both, have been involved in other
24 litigations between our states, and particularly
25 in the Arkansas, and the lessons we've learned

10:46 AM 1 from there, and the many years and many dollars
2 that can be spent on these disputes.

3 So, again, I just want to emphasize, we
4 need to figure out that there's additional steps
5 or measures that this commission can take to
6 ensure that we're dedicating the necessary
7 resources.

8 And I think it starts with us to ensure
9 that when these disputes come forward, or requests
10 come forward from any of the states, that we
11 develop a plan early on to timelines and
12 everything that we can commit our staffs to work
13 on these matters. Thank you.

14 CHAIRMAN BARFIELD: Well, thank you,
10:47 AM 15 Commissioner Wolfe. I guess the only thing in
16 response to that comment is, I believe Kansas has
17 dedicated the resources necessary. Our failure to
18 agree is not necessarily a failure to commit the
19 resources necessary, but again, as I indicated,
20 we -- we are -- we would like to work through
21 these issues, and get to resolution. And we'll
22 continue to work through them in a responsive way.
23 Is there any further discussion?

24 COMMISSIONER DUNNIGAN: Yes, Chairman
25 Barfield. I agree with you that the dispute

10:48 AM

1 resolution process is clearly laid out. And my
2 point is that, I'm asking if Kansas has a process
3 that they'll share with the RRCA on how they will
4 go through issues brought before the RRCA so we
5 don't end up in the dispute resolution process.

6 I would ask if you would share with us,
7 today, the staff and the resources that you
8 dedicate to the Republican River Compact on an
9 annual basis.

10 CHAIRMAN BARFIELD: Well, I don't have a
11 tabulation prepared in any form in terms of the
12 hours that we have dedicated. They have been
13 profound in terms of my time, the time of our
14 staff, as well as utilizing experts. So -- but I
15 don't have any specific tabulation of that for
16 you.

10:49 AM

17 Again, at the beginning of my report, I
18 went through the very significant resources we
19 have dedicated in terms of time.

20 COMMISSIONER DUNNIGAN: Chairman Barfield,
21 do you recognize the time sensitive nature of some
22 of the issues that have been brought before the
23 RRCA, such as the alternative water short year
24 plan that Nebraska proposed, and the augmentation
25 plans that Nebraska proposed, given the fact that

10:50 AM 1 we are in a water short year?

2 CHAIRMAN BARFIELD: Well, Kansas is
3 responding to those initiatives, as they come with
4 the necessary resources. Nebraska would have had
5 the opportunity to develop an alternative water
6 short plan dialogue of many years ago. It did it
7 at a juncture that, and again, provided a plan
8 that did not conform with Appendix M, and I can't
9 change that. We've provided guidance as to what
10 we think how that issue can be worked through, and
11 again, Nebraska did not bring the augmentation
12 plan to us until the thing was constructed.

13 My obligation, I believe, under the
14 Compact is to respond. But these changes are, as
10:51 AM 15 I said, quite profound, and must be done in an
16 appropriate way.

17 COMMISSIONER DUNNIGAN: I would just note
18 for the record that Colorado did find Nebraska's
19 alternative water short year plan in conformance
20 with Appendix M, and also found that the Rock
21 Creek proposal in conformance with the final
22 settlement stipulation.

23 CHAIRMAN BARFIELD: All right. Any
24 further discussion? Would you like to proceed to
25 the next agenda item?

10:52 AM

1 Commissioner Dunnigan, are you ready to
2 move on to the next item on the Harlan county?

3 COMMISSIONER DUNNIGAN: We are, and I'll
4 turn it over to Dr. Schneider.

5 CHAIRMAN BARFIELD: Thank you.

6 DR. JIM SCHNEIDER: I'll just briefly
7 summarize, or just mention that we had a
8 discussion yesterday on the accounting that was
9 done for Harlan County Lake regarding the
10 evaporation for Compact water that was involved in
11 Nebraska's Compact compliance efforts.

12 And we developed a resolution that
13 essentially commits Kansas to assuming
14 responsibility for the evaporation of that Compact
15 water, and then utilizes the, essentially, the
16 same process of looking at the ratio of the
17 diversions between the two districts for splitting
18 the remainder of the evaporation from Harlan
19 County Lake.

10:53 AM

20 CHAIRMAN BARFIELD: Should I read this
21 into the record, or have one of you, and then
22 we'll act on it? Okay.

23 As Dr. Schneider indicated, we talked
24 through this issue yesterday, and subsequent
25 through the evening developed a resolution that

10:53 AM

1 we'll consider today to memorialize that
2 discussion and agreement.

3 It's a resolution concerning Harlan County
4 Lake evaporation split for 2013. And it states:

5 Unless subsequently agreed to otherwise,
6 the States agree to share the evaporation of
7 Harlan County Lake for 2013 according to the
8 following method:

9 1. Kansas will accept full responsibility
10 for the evaporation that is charged to the
11 "Compact Water" pool as determined by the U.S.
12 Bureau of Reclamation.

13 2. The States will split the remainder of
14 the evaporation for the year in proportion to the
15 annual diversions made by the Kansas Bostwick
16 Irrigation District and the Nebraska Bostwick
17 Irrigation District from the beginning of the
18 irrigation releases from Harlan County Lake until
19 September 1.

10:54 AM

20 And so I guess I would entertain a motion
21 to adopt this resolution.

22 COMMISSIONER WOLFE: Chairman Barfield, I
23 just wanted, for clarification, it sounded like
24 what you read was maybe an earlier version. In
25 that second provision you said "the States," and I

10:54 AM 1 think you had modified it to say, "Kansas and
2 Nebraska," so I'm not sure you were reading from
3 the last modified version. Am I correct?

4 CHAIRMAN BARFIELD: You are correct.

5 COMMISSIONER WOLFE: I just want to
6 reflect for the record that Colorado's not part of
7 this allocation of evaporation, so when the
8 reference is made to "States" I wanted to make it
9 clear that it was just "Nebraska and Kansas." So
10 there were some revisions to this, so if you want
11 to refer to maybe the most current one that you
12 had finished with, that would be the -- probably
13 the one we should act on.

14 CHAIRMAN BARFIELD: All right. Hold on
10:55 AM 15 one moment.

16 Chelsea, do you have the most recent
17 version?

18 CHELSEA ERICKSON: No.

19 CHAIRMAN BARFIELD: Okay. I e-mailed it
20 to you last night. It's not here before me. If
21 technology can allow me to pull it up on my
22 Blackberry, if you'll just hold on for a moment.

23 (Pause in proceedings)

24 CHAIRMAN BARFIELD: I believe my
25 recollection of the changes last night is you sent

10:56 AM 1 an e-mail, and we substituted for the words "the
2 States" the words, "Kansas and Nebraska." And we
3 removed a duplication of the phrase, "and the"
4 which was there twice. Which I didn't read twice.

5 So I guess I would entertain a motion to
6 accept it as read, except correcting, "the States"
7 to read, "Kansas and Nebraska." And with that, I
8 entertain a motion.

9 COMMISSIONER WOLFE: So moved.

10 COMMISSIONER DUNNIGAN: Second.

11 CHAIRMAN BARFIELD: Very good. All in
12 favor, say "Aye."

13 COMMISSIONER WOLFE: Aye.

14 COMMISSIONER DUNNIGAN: Aye.

10:56 AM 15 CHAIRMAN BARFIELD: Aye.

16 Okay. I believe that addresses that
17 issue.

18 Yes, we will print up a new one and sign a
19 new version here momentarily. And we are also
20 working to type up the Resolution concerning the
21 application of Bonny's Area Capacity Table, and
22 will sign that here at the conclusion of our
23 meeting.

24 Commissioner Dunnigan, would you like to
25 take the third item?

10:57 AM

1

COMMISSIONER DUNNIGAN: Yes, please.

2

CHAIRMAN BARFIELD: All right. Very good.

3

And just to provide a bit of background on this,

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Commissioner Dunnigan and I also represent our

5

respective states on the Big Blue Compact meeting.

6

I had at that meeting, similar to here, reported

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on some of the significant legislation that was

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enacted by our legislature, and noted the

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significant change in terms of regulation from a

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dam safety standpoint of what we call in the

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Compact, non federal reservoirs, narrowing the

12

scope of what dams are regulated from a water

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structure standpoint.

14

He wondered, or asked, basically, for a

10:58 AM

15

report here as to how that would impact our

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obligations to report non federal reservoir

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evaporation. And basically, at the work session

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last night I provided a response that said that

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the dam made two changes in dams. One is a change

20

in definition, and the second is an expansion of

21

the exemptions. And the more profound change was

22

the expansion of the exemptions, but exempt dams

23

have to be registered and have to be low hazard.

24

So we'll still have a way to monitor new dams that

25

are built, for the majority of dams.

10:58 AM

1 And then I explained in addition to our
2 regulatory responsibilities with respect to dam
3 construction and dam safety, we have to permit
4 water use from dams. And that between the two, we
5 have sufficient opportunity to monitor new dams,
6 and we would continue to carry all dams that meet
7 the existing definition. So that -- that's my
8 report on that item.

9 COMMISSIONER DUNNIGAN: Thank you for that
10 explanation.

11 CHAIRMAN BARFIELD: Okay. With that, I
12 think we're ready then to act on the Engineering
13 Committee Report. Okay. Very good. Let me back
14 up. Kansas has no additional items under 9, under
10:59 AM 15 Item 9. I guess, Commissioner Wolfe, I would ask
16 if you have any additional new items of business
17 to consider?

18 COMMISSIONER WOLFE: Colorado has no
19 additions.

20 CHAIRMAN BARFIELD: Thank you. All right.
21 With that then I would move us to Agenda Item 9(b)
22 where we act on the Engineering Committee Report,
23 and its recommendations for assignments for the
24 coming year.

25 COMMISSIONER WOLFE: I move that we

11:00 AM 1 approve the Engineering Committee's Report, and
2 the associated assignments.

3 COMMISSIONER DUNNIGAN: Second.

4 CHAIRMAN BARFIELD: All right. It's been
5 moved and seconded, is there any discussion? If
6 not, I would ask for a vote. All in favor, say
7 "Aye."

8 COMMISSIONER DUNNIGAN: Aye.

9 COMMISSIONER WOLFE: Aye.

10 CHAIRMAN BARFIELD: Aye. The motion
11 passes.

12 Okay. Agenda Item 9(c) is a resolution
13 honoring Scott Ross, and I would just like to read
14 the resolution in the record.

11:00 AM 15 This is a resolution that we have offered.

16 WHEREAS, Scott E. Ross of Stockton, Kansas
17 is retiring tomorrow from his long-held position
18 of Water Commissioner for the Division of Water
19 Resources, Kansas Department of Agriculture, after
20 faithfully serving in the Department for over
21 thirty-two years; and,

22 WHEREAS, acting as the Kansas
23 Representative to the Republican River Compact
24 Administration Hearing Committee, Scott has
25 diligently represented the Compact interests of

11:01 AM

1 the State of Kansas and its residents of the
2 Republican River Valley and its tributaries, as
3 well as addressing the State of Kansas to maintain
4 its fulfillment of its obligations under the
5 Compact; and,

6 WHEREAS, while diligently representing the
7 State of Kansas and its constituents, Scott has
8 kept open lines of communication with
9 representatives of the States of Colorado and
10 Nebraska, assisted in compiling Compact data, and
11 assisted several Kansas Chief Engineers to reach
12 fair and reasonable solutions to the many issues
13 associated with the Republican River Compact; and,

11:01 AM

14 WHEREAS, Scott's professionalism,
15 straight-forward personality, and "Git' R'Done"
16 attitude have been an asset to the RRCA and the
17 State of Kansas

18 NOW THEREFORE, be it hereby resolved that
19 the Republican River Compact Administration does
20 hereby express its sincerest gratitude and
21 appreciation to Scott E. Ross for his service to
22 RRCA in his position of Kansas representative on
23 the Engineering Committee.

24 Be it further resolved that RRCA honor
25 Mr. Ross' service by including this resolution and

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11:02 AM 1 appropriate dedicatory remarks in RRCA's annual
2 report for the Compact year 2013 and hereby
3 instructs the Kansas Commissioner to send copies
4 of this resolution to the Ross family and Governor
5 of the State of Kansas.

6 Entered this 12th day of September, 2013,
7 at the annual meeting of the RRCA in October, held
8 in Colby, Kansas.

9 I guess I would move adoption of the
10 resolution.

11 COMMISSIONER WOLFE: Second.

12 CHAIRMAN BARFIELD: Any discussion?

13 COMMISSIONER WOLFE: Mr. Chairman, on
14 Colorado's behalf, Mr. Ross, we'd like to thank
11:02 AM 15 you for all your dedicated years to the
16 commission, and wish you the best in your
17 retirement, and hope all goes well.

18 SCOTT ROSS: Thank you.

19 COMMISSIONER DUNNIGAN: And that's echoed
20 by Nebraska.

21 CHAIRMAN BARFIELD: All right, very good.
22 Thank you very much. I guess I'd ask for a vote.
23 All in favor say, "Aye."

24 COMMISSIONER WOLFE: Aye.

25 COMMISSIONER DUNNIGAN: Aye.

11:03 AM

CHAIRMAN BARFIELD: Aye.

(applause)

CHAIRMAN BARFIELD: Very good. This is an opportunity then for any remarks from the public. We have a microphone here. Come forward.

DAVID ROBBINS: Chairman Barfield and members of the Commission, my name is David Robbins. I represent the Republican River Water Conservation District. And my remarks are, in part, a follow-up on the remarks made earlier by Commissioner Dunnigan and Commissioner Wolfe. And that has to do with the question of solving problems cooperatively.

Based upon remarks that Commissioner Barfield made at the meeting last year, and what I understand to be the discussion that occurred yesterday, and that I observed, apparently Kansas is considering whether or not to continue funding a third of a common effort to develop data sets each year representing the Basin, and then including them in preliminary and final runs of a model that is required by the final settlement stipulation.

It's very troubling to the water users in Colorado that that sort of a consideration would

11:04 AM 1 be occurring, particularly in light of the
2 concerns that Nebraska and Colorado have already
3 stated about the need to move toward cooperation.
4 And so my request is that if it is Kansas'
5 determination, which it is free to make as a
6 single state, not to participate cooperatively,
7 that the states of Nebraska and Colorado promptly
8 instruct Mr. Schreuder of Principia Mathematica to
9 establish separate proprietary web sites so that
10 all of the work information developed, and the
11 model activity that is being handled by that firm,
12 is available only to the people who are paying for
13 it.

14 I believe strongly in the principle of pay
11:05 AM 15 to play, and if Kansas doesn't want to participate
16 in a cooperative effort, then I think they should
17 be free to do whatever they wish in terms of
18 developing data, recording data into the model,
19 operating the model. But at the end of the day,
20 the sharing of information between that, the state
21 of Kansas and the other two states, are to occur
22 at a common time, and only that information shared
23 by Kansas with the other two states should be
24 shared the other way.

25 I think it's a mistake. I think the

11:06 AM 1 moving away from a common set of data, a common
2 operation of the model, will ultimately result in
3 a tremendous waste of money and time, for both
4 sides, whether it's in an arbitration proceeding,
5 in the Engineering Committee or in litigation. So
6 I'm hoping that that isn't the ultimate decision.

7 But I want to make it very clear that on
8 behalf of the water users, we strongly request
9 that if it is going to be state by state, that you
10 handle it in that way in the future.

11 Obviously, Kansas has participated up to
12 this time, and everything that's been done up to
13 this time should be shared among the three states.
14 But going forward, please take that into account.
11:07 AM 15 Thank you very much for the time to comment.

16 CHAIRMAN BARFIELD: Thank you. Any other
17 remarks from the public?

18 DENNIS CORYELL: Yes. Commissioners, I
19 commend you for the work that you do and the
20 efforts that you put forth to deal with Compact
21 issues.

22 But from my perspective, I believe that
23 there is a bit of a disconnect in what is going on
24 on the ground, and what happens in meetings.

25 Five and-a-half years ago, I stood before

11:07 AM 1 this Commission and presented a plan for Colorado
2 to achieve compliance. In that time period, my
3 farm alone, we've spent \$70,000 to achieve
4 compliance. In January, it will jump to \$85,000.

5 You know, if -- if \$15,000 was deducted
6 from your salaries every year that a settlement is
7 not reached, I contend that this would long have
8 been settled.

9 My first inclination would be to lock the
10 three states in a room, let me have the key, and
11 I'm not going to let you out until you get it
12 settled.

13 You know, I wouldn't buy a piece of
14 machinery and leave it set in my field and not use
11:09 AM 15 it for five and-a-half years. And that's where
16 we're at in the Republican Basin in Colorado. So
17 actions speaks louder than words.

18 Please get together. I don't know what --
19 what process has not been working. But it needs
20 to change. That's clearly a -- a farmer's
21 perspective. I'm not a lawyer. I'm not an
22 engineer. I wish I weren't a chairman of a board.
23 We need to get this done. And we need to have a
24 process in the future, when issues like this come
25 up, they get settled, and not talked about. Thank

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11:10 AM 1 you.

2 CHAIRMAN BARFIELD: And for the record,
3 that's Dennis Coryell.

4 Thank you for your remarks.

5 Any further remarks from the public?

6 Very good. We'll move on to the next
7 agenda item, which is future meeting arrangements.
8 I would turn to Commissioner Dunnigan, soon to be
9 Chairman Dunnigan, for your pleasure there.

10 COMMISSIONER DUNNIGAN: We will work with
11 the commissioners on suitable dates for next
12 year's annual meeting, but we would like to put a
13 date out there right now. We would plan on August
14 27th and 28th, a Wednesday and a Thursday, and
11:10 AM 15 that meeting would be in Lincoln. And of course
16 if that doesn't work, we'll work on a schedule for
17 that meeting. But I did want to put that out
18 while people's schedules may be more available
19 now.

20 CHAIRMAN BARFIELD: Very good. We'll
21 proceed along that basis, and we'll consult our
22 calendars, and let you know if there's anything
23 that, at this juncture, appears to conflict.

24 COMMISSIONER WOLFE: At this time for
25 Colorado, those dates work.

11:11 AM

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CHAIRMAN BARFIELD: Very good. Okay.

Well, if there's nothing else to discuss, I would move to, I guess I'd entertain a motion to adjourn.

COMMISSIONER WOLFE: So move.

COMMISSIONER DUNNIGAN: Second.

CHAIRMAN BARFIELD: All right. All in favor say, "Aye."

COMMISSIONER WOLFE: Aye.

COMMISSIONER DUNNIGAN: Aye.

CHAIRMAN BARFIELD: Aye. We're adjourned.

Proceedings concluded at 11:11 A.M.

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STATE OF KANSAS,
THOMAS COUNTY, SS

C E R T I F I C A T E

I, Marilyn F. Bailey, Registered Merit
Reporter, do hereby certify the above and foregoing
proceeding was taken at the time and place as
specified; that the same was taken before myself in
shorthand and later transcribed and extended into
typewritten form to the best of my ability, and is a
true and correct extension hereof.

That I am not counsel nor relative of any
of the parties or otherwise interested in the event or
outcome of this matter.

IN WITNESS WHEREOF, I have set my hand and
official seal at Colby, Kansas, this 15th day of November, 2013.

MARILYN F. BAILEY, RMR-CRR

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